

Section 9

Audio Recording Procedures

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Audio Recording Procedures

9-01 INTRODUCTION

These procedures are recommended to assist in achieving maximum quality in recording. While the procedures are not mandatory, both electronic operators and court recorders are encouraged to adopt them in the course of their profession.

A. Duties and Responsibilities of Court Operator

1. General

The operator is responsible for producing a record of all proceedings in the court to which they have been assigned. The operator must produce the clearest possible recording of proceedings and must keep a written log of events in the proceeding. Satisfactory performance of the system depends almost entirely on the operator's understanding of the procedures outlined and his/her conscientious application of these procedures to his/her work in the court.

2. Specific

- a. Top priority must be given to recording of court proceedings. The operator must be in the courtroom early enough to prepare for the recording.
- b. The operator is responsible for interruptions or gaps in the tape unless the judge's order to stop the machine can be heard on the tape.
- c. The record consists of properly labeled tapes along with log notes and other accompanying information that the transcriber needs to produce a complete and accurate typed transcript of the proceedings. The operator must listen to the recording s/he is producing through headphones and maintain a log of the proceedings. To assure the quality of the audio recording and the completeness of the log materials, the operator may need to ask people to speak into a microphone, to speak louder, or to spell their names or the names of people or places they are talking about. The operator must have the headphones on at all times and **must listen to the tape, not the source**. This insures that the tape is being recorded on.

B. Duties and Responsibilities of Judge

The judge must ensure that an adequate record of proceedings has been made by:

1. maintaining court decorum to permit an accurate record to be recorded;
2. making participants aware that the court proceeding is being electronically recorded;

3. speaking loudly and clearly and reminding participants to do the same;
4. calling the case by name and number and type of proceeding;
5. reminding all participants to properly identify themselves when making their initial appearance during a proceeding;
6. announcing on tape if a side bar conference is to be recorded;
7. reminding counsel, when necessary, to remain within an appropriate distance of microphones;
8. reminding participants not to make excessive noises that interfere with the recording such as rustling papers, tapping fingers on microphones, etc.

9-02 DAILY STARTING PROCEDURES

Planning and preparing for each day is an important function. As a general practice, the operator should establish a habit of bringing adequate supplies for preparing an accurate recording. S/he should also develop a routine for pretesting the equipment to avoid embarrassing and critical interruptions or delays caused by lack of preparation. The operator should not have to leave the courtroom to retrieve forgotten or depleted supplies.

A. Supplies

The supplies needed on a daily basis include:

1. court calendar;
2. cassette tapes for the day;
3. log sheets;
4. blue, red and highlighting pens; and
5. witness and exhibit lists.

B. Pretesting Procedures

The operator must test the recording system each day before proceedings begin.

1. Make sure the recording equipment is plugged in and that all microphones are plugged into the equipment; make certain that microphones are plugged into the proper channels.
2. Fill out label information on the tape.
3. Reset the index counter if a new tape is installed or note the index counter on the log sheet if tape has been partially used during the previous court session.
4. Make a test recording by turning the recording equipment on and in the record mode. Walk around to each microphone stating: "testing microphone #1", "microphone #2", etc. and lightly scrape the microphone screen with a pen cap or fingernail.
5. Go back to the recording equipment and rewind to the meter number at which you began the test recording (which would be on the log sheet) and listen to the test recording.
6. Stop the test recording and log the index number at the point the check ends.

C. Handling Problems with Recording Equipment

If there are problems with the recording equipment repeat the above steps. If they persist, try the following:

1. repeat the above steps;
2. check the tape to make sure nothing is on it or put a fresh tape in the recorder;
3. check connections for the microphone and headset;
4. check volume control or whether monitor is on "ALL".

If the problem persists, contact the service representative and use the backup recorder.

9-03 LOGGING PROCEDURES

A. Purpose and Content of Log Notes

Detailed, legible log notes are essential for the preparation of a complete and accurate transcript. The operator should remember that the transcriber must rely solely on the tape and the log notes to produce an accurate transcript. Errors, omissions, misspellings, or inconsistencies make transcript preparation more difficult.

In general, log notes serve three purposes: 1) to locate a specific proceeding, 2) to locate a specific portion of the proceeding, and 3) to aid the transcriber in preparing the transcript. The content of log notes includes: 1) the tape recorder index or digital counter numbers that correspond to the beginning of the specific portions of proceedings, 2) the times of specific events, 3) the names of speakers, 4) correct spellings of names and other uncommon words or phrases; and 5) any other pertinent notes.

B. General Procedures

1. Preparing Log At Beginning of Day

Some information necessary for a complete log is available before proceedings begin each day. This information should be obtained from the court clerk and entered on the log before court sessions begin to ensure that log notes are not inadvertently misfiled and so that the operator can more readily identify the speakers when sessions begin. Courts will have different docketing systems, so the operator must determine how recording is accomplished in his/her particular court. Some type of calendar or list of the scheduled cases can be obtained from the court clerk. At the end of each day, the operator should make certain the log contains all necessary information.

Basic case information which should be included at the beginning of the log for each proceeding is as follows and is described in more detail in this chapter:

- a. Case name
- b. Case number
- c. Court name
- d. Full name of judge and abbreviation
- e. Date
- f. Time

- g. Type of hearing
- h. Full name and "P" number of attorney for plaintiff and abbreviation
- i. Full name and "P" number of attorney for defendant and abbreviation
- j. Full names of witnesses and abbreviations
- k. Name of court recorder/operator
- l. Tape number
- m. Microphone channels ('tracks') and name of speaker on each channel

In addition to providing the full name of each speaker, an abbreviation should be developed for identifying them throughout the remainder of the proceeding and log. See item 2. below for details.

Note: It is important to identify each speaker and the microphone channel they are using. If they move to another channel during the proceeding, as often as possible, the operator should identify the change by logging both the speaker's full name and abbreviation with the new channel. See item 5. on page 9-03-03.

2. Developing Abbreviations

Abbreviating the names of the speakers saves the operator time during logging. However, it is essential that each speaker still be identified by their full name at least once at the beginning of the log notes. **Abbreviations should be used consistently throughout the log for each proceeding** and should be as different as possible from one another so the transcriber will assign the correct names to each speaker.

Use the last name or a recognizable abbreviation rather than an initial or a number. For example:

- a. District Attorney John Beauchamp could appear as "Beau" or "Bea";
- b. Defense Attorney Maria Hanson could appear as "Han" or "Hans".

There are four exceptions to not using an initial or number. They are:

- a. Court which is "C";
- b. Judge which is "J";
- c. Interpreter which is "I"; and
- d. Witnesses which are "W1", "W2", "W3", etc.

3. Index or Digital Counter

Index or counter numbers are logged for two main reasons:

- a. they are essential for playback of testimony in the courtroom; and
- b. they enable the transcriber to locate and identify specific parts of the proceeding on the tape.

When the tape changes to another tape on the recording equipment, the operator must indicate the tape number on the log, reset the counter, and insert a clean tape. Be sure to let the tape overlap and record until the end of the tape.

4. Indicating Courtroom Events

In addition to logging digital or index counter numbers, the operator must log the times for the following:

- a. when the proceeding begins;
- b. when the proceeding ends;
- c. beginning and ending times of each recess;
- d. each time the jury enters the courtroom;
- e. each time the jury leaves the courtroom;
- f. beginning and ending times of noon recess; and
- g. beginning and ending times of each off-the-record event.

The importance of indicating case event times and counters numbers in the log cannot be overemphasized. If a transcript of all or a portion of a proceeding is ordered, the transcribers will need this information to produce an accurate and timely transcript.

5. Identifying Multiple Speakers

The audiotape transcribers will be able to identify speakers by the channel or track on which they have been recorded only **when there is no more than one speaker per track**. Because the recording system will routinely have tracks on which more than one speaker is recorded, transcribers will depend on the operator's log for accurate speaker identification.

Court cases involving multiple attorneys will result in many speakers being recorded on a single channel. In such instances, it will be necessary to make certain that each attorney is clearly recorded and that proper speaker identification is marked in the log next to the counter number corresponding to the beginning of that speaker's recording.

A similar situation occurs when attorneys use the speaker's stand (lectern). A single microphone will be used by a number of speakers during the course of a proceeding. These speakers will most likely be recorded on other channels as well during other parts of the same proceeding. Again, the transcribers will depend on the log for proper identification of the speakers.

Motions are often argued in front of the bench rather than at the stand or the counsel table. In such instances, several people will be speaking into a single channel. The log must properly identify each speaker to ensure accurate transcription.

C. Specific Procedures

The following are instructions for logging specific types of events in a proceeding.

1. Voir Dire (Jury)

Voir dire is logged the same as other proceedings. The words "Voir dire" should be written on the line opposite the counter number for the beginning of voir dire. Remember to verify spellings of all names and use juror numbers or names when they are speaking.

2. Witness Called

Clearly mark the name of each witness on the log sheet in a red pen or highlighting pen when a witness is called. Example: Witness: Joseph Smith

3. Examination of Witnesses

For examination of witnesses, indicate on the log the type of examination, the name of the person conducting the examination, and the key points of the testimony. Direct, cross, redirect, and recross-examination should all be designated in the log with the corresponding times and counter numbers. Example: Direct - by Mr. Mazur

The following are definitions of the type of examinations.

a. Direct Examination

Direct examination is the first questioning of a witness by the party on whose behalf the witness is called.

b. Cross-Examination

Cross-examination is the first questioning of a witness by the party opposed to the party who called the witness. A witness may be called as an adverse witness under the statute MCL 600.2161; MSA 27A.2161 for cross-examination. That witness is then cross-examined by all parties.

c. Redirect Examination

Redirect examination follows cross-examination. Redirect examination is the subsequent questioning of a witness by the party on whose behalf the witness is called.

d. Recross-Examination

Recross-examination follows redirect examination and is the subsequent questioning of a witness by the party opposed to the party who called the witness. This procedure is followed with every witness until the prosecutor or plaintiff rests. The defendant may, at that time, call witnesses on his/her behalf and the above procedure is again followed with every witness until the defendant rests.

e. Rebuttal

If new matter is brought out by the defense attorney during the presentation of the defendant's case, the prosecution or plaintiff may introduce evidence intended to contradict or rebut this new matter.

4. Testimony

- a. The content of testimony is logged by writing down key words. Below is an example of a question and three ways the question might be logged.

(Question asked by Attorney Hanson): "Where were you on the night of May 5th when you heard Louis tell you that he didn't want to work for the company any more?"

	<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>	
1)	2:07	123	Hans	Q Where/May 5/Louis/work
2)	2:07	123	Hans	Q Where were you/heard Louis/company
3)	2:07	123	Hans	Q /May 5/Louis/work

The slashes (/) in the above examples indicate there is a break in the sentence where the testimony was not logged.

- b. If there are long periods of question and answer examination, it is not necessary to log every exchange. Periodic notations throughout these long examinations will at least provide various points for searching for a particular section when playback is requested from the court.

Instead of logging the speaker identification for every question and answer, simply draw an arrow pointing downward beside the speakers' names where they are initially logged. This arrow indicates that everything following represents questions by the same attorney and answers from the same witness. The "Q" and "A" can also be omitted after the first exchange. Of most importance is logging counter numbers and key words or phrases.

For example, if an attorney is questioning a witness about the theft of an automobile, s/he may start by asking a series of questions about when and where the auto was last seen, then a series of questions on the condition of the auto, and then a series of questions about who stole the auto. This example could be logged as follows:

<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>
3:32	250	H a n s
Q Where/auto/last time		
	W1	A Afternoon/home
	330	Chipped paint/dented
	495	thief/blonde/30's

- c. Any time a person other than the original persons indicated in the continued "Q" and "A" period speaks, the counter number, person speaking, and a few key words must be noted. This is especially important with objections.

<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>
3:50	499	H a n s
Q Yesterday/worked		
	W2	A No/it was/Friday
3:55	546	B e a u
Objection/Leading		

5. Colloquy

At times there may be extensive colloquy between two persons, and it may be difficult to log each exchange. This is especially true when attorneys are arguing about an objection or some other legal point. Use the same format used with continued "Q" and "A" in this instance.

<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>	
	134	Hans	How/acres/place
		Beau	No/further
			Visit/place
			Problem/time

This example applies only when the exchange is between two persons. Any time there are more than two person speaking, the abbreviations of each individual should be marked in the log along with as many key words as the operator is able to write down.

At times the discussion will be moving so quickly that it will be difficult to write down key words. In this event, the most important logging element is the individuals' names in the order in which they have spoken. During "fast" discussions, it is advisable to write down the speaker's abbreviation and the first words of the attorney or judge who is speaking to aid the transcriber in keeping track of the exchange.

6. Interruptions

There will be occasions the judge will interrupt one of the attorney's examinations and ask a few questions of the witness. This usually occurs when the judge wants to clarify something and should be logged as follows:

	<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>	
	1:45	225	H	a n s
Q	What day/say			
		W2	A	Monday
		245	J	Was that 24 days?
		W2		No/28

7. Interpreters

When the court is using an interpreter, the interpreter is sworn in. Log only what the interpreter says in English. If the person being interpreted to says something in English, it should be logged as well.

8. Objections

Mark all objections in the log. Write down the counter number, attorney abbreviation, and either "objection" or "obj". The basis of the objection should also be noted such as "hearsay", "irrelevant", etc. Judges will respond differently to objections.

9. Guttural Utterances

Guttural utterances such as "uh-huh" or "uh-uh" may be marked on the log as such if the attorneys or judge fail to clarify the record. However, **this should not become a common practice**. The operator is encouraged to ask the judge to instruct the witness to answer with a yes or no response.

10. Off-Record Conversations

There will be occasions when conversations from people at the counsel tables are picked up on tape. If this should happen, a notation should be made in the log. The attorneys should be instructed to move away from the microphones when they are conferring off the record.

11. Exhibits

It is important to clearly note on the log each time an exhibit is identified, admitted/received, rejected, or withdrawn. Clearly mark the exhibit number and particular status as indicated by the judge. In some courts exhibits are marked for identification prior to trial. In other courts, the court recorder is responsible for marking exhibits during the trial. Ordinarily, one of the attorneys states, "I would like to have this document (or this exhibit) marked for identification." At this point, the operator would note in the log that an exhibit was marked for identification. Below is an example:

<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>
10:03	293	PX 22 (Glasses) - marked
12:20	599	DX 29 (Letter) - admitted or received

Sometimes the identification of a document may not be this clearly indicated, or a judge will admit several exhibits at once. The operator must pay close attention to the proceedings. If the log is unclear, the operator may need to verify the identification with the court clerk or deputy court clerk after the court session is closed or get a list of exhibits before or after the proceeding.

Objections or arguments by the attorneys may be stated regarding the admissibility of exhibits. The judge will make his/her ruling on the admissibility of the exhibit and may say, "PX 1 will be admitted into evidence at this time," etc. Again, the operator will need to note on the log that the exhibit was admitted into evidence.

See also Michigan Trial Court Case File Management Standards, Component 20, pages 30 and 31 for standards on receipting and storing exhibits.

12. Special Terms and Proper Names

The operator must always note in the log the initial use of any special term or proper name for which the spelling will need to be verified. There may be many of these terms or names used in a technical, medical, or drug case. When possible, the operator should ask the attorneys to supply a list of names and terms prior to the court session. **Incorrectly spelled terms or names should never appear in the log.**

The operator is responsible for verifying the spelling of these special terms or proper names at the time of the proceeding. Most spellings can be verified by the individual who mentioned the terms or names. The operator should approach the person (such as an expert witness or the attorney) during a break in the court proceedings. If the person is not available, check with the keeper of the exhibits. If the term or phrase is one used by a foreign speaking person and it is to be included in the record in the foreign language, the best source for the correct spelling is the interpreter.

13. Bench and Sidebar Conferences

If a conference is off-the-record, the operator should make certain to record the judge announcing that it is off-the-record. The recording equipment should then be turned off. Note the counter number where the recording was interrupted and indicate next to the counter number that an off-the-record conference occurred at that point and the time it occurred. When the conference is over, the recording equipment should be turned on and logging resumed.

If a conference is on-the-record, it must be recorded and logged. The operator should indicate in the log when a conference is on-the-record. The following are the steps in recording and logging an on-the-record sidebar or bench conference.

- a. Note the counter number at the beginning of the conference and identify the event in the log.

- b. The operator must log all bench conference and keep the headphones on. Make certain that the judge's microphone is suitably close to all speakers.
- c. Note on the log the name of each person who speaks at the bench conference, and as thoroughly as possible, indicate what they say. The operator will not be able to log counter numbers if s/he is away from the recording equipment. Therefore, transcribers will need to rely exclusively on the log. All speakers will be recorded through a single microphone onto a single channel, and the transcriber will be more dependent on the log for identifying the speaker. **Remember that all voices tend to sound the same when whispered**, so write their name (abbreviation) and the first words they say in order to identify the speaker.
- d. The judge's microphone should be repositioned after the conference ends if it was moved. The operator should note the counter number at which open-court proceedings resume, and indicate to the right of the counter number that proceedings have resumed.
- e. Resume normal recording and logging procedures.

14. Audiotape and Videotape Sources

Attorneys may on occasion play audio or videotaped materials during the course of the proceedings. In such instances, the operator should follow these procedures:

a. Audiotape or Videotape Recorded

If the playback of the audiotape or videotape is to be recorded:

- 1) Mark the counter number and note on the log "videotape (or audiotape) of _____ played in court."
- 2) Move a microphone to a position near the speaker through which the recorded material will be played.
- 3) Log as much as possible to help the transcriber with speaker and content identification.
- 4) Mark on the log the counter number at which the playback of the audiotape or videotape concludes, note that the playback concluded, reposition the speaker microphone, and resume normal recording and logging procedures.

b. Audiotape or Videotape Not Recorded

If the playback of the audiotape or videotape is not to be recorded:

- 1) Log the counter number preceding the playback of the audiotape or videotape.
- 2) Make a note describing the material played back and turn the recording equipment off.
- 3) When the playback of the audiotape or videotape is completed, make certain that the recording equipment is turned back on and resume logging.

15. In-Chambers Proceedings

Mark on the log the counter number and time at which the in-chambers proceeding begins and identify the proceeding to the right of the counter number. Identify all parties and attorneys present for the conference at the beginning of the log. The operator must be particularly conscientious in noting counter numbers and key words and phrases for each speaker. Several speakers will use one or two channels and the transcriber will be dependent on the log for correct speaker identification.

Make certain to note the counter number at the end of the proceeding and the time the proceeding concluded in the log.

16. Telephone Conversations

Telephone conversations should be fed into the courtroom or chambers through a speaker box. The microphone should be placed next to the speaker. Log the counter number and the time at which a telephone conversation begins, and identify the person in the log. For example, "phone call between Judge Benjamin and Defense Attorney Rebecca Wilson regarding . . .". Frequently, the operator will not know the subject matter of a telephone call before the conversation starts. This information should be provided in the log as soon as possible after a conversation ends.

If more than two persons are involved in a telephone conversation, ask each party to identify him/herself before speaking. It is crucial to note the counter number corresponding to each change of speaker. The operator may need to remind people to speak one at a time.

D. In-Court Playback of Testimony

There are a variety of circumstances where the operator may be asked to play back testimony or some other portion of the audiotape record. Most frequently, playback will be requested in open court. Discussion by an attorney and the judge over an objection to a particular question may result in a request to play the question back. In such instances, the operator's ability to quickly locate the question for playback will depend on the precision of the operator's log. The operator's goal should be to locate and play back requested portions of testimony as quickly as possible. This is another reason logging is so important.

To play back a certain portion of the proceedings:

1. Stop recording equipment.
2. Note index counter number on log sheet.
3. Determine from the log the location of the starting index number for the requested testimony.
4. Rewind tape until index counter is at location of the requested playback.
5. Play requested portion.
6. Mark on log sheet that specific portion of the recording was played.
7. Advance tape in fast forward mode to just past the index number where recording was interrupted.
8. Return equipment to record mode.
9. Inform judge or attorneys they can resume. **The operator should not let the attorneys, judge, or witness begin the proceeding before the recording equipment is in the record mode and the operator is ready to continue logging.**

9-04 APPROVED AUDIO RECORDING EQUIPMENT

The following audio recording equipment is approved for use in Michigan courts.

1. PCS - ACR 7B (formerly GYYR)

The ACR 7B is approved to record at a speed of 2.4 centimeters per second only.

2. Lanier - Advocate II, III and IV

The Lanier models are approved to record at a speed of 2.4 centimeters per second only.

3. Lanier Advocate V

This model is approved only with balanced microphone cable and XLR input connectors and only to record at a speed of 15/16 IPS.

4. Sony - BM 145, 146 and 246

The Sony BM 145 is approved to record at both 4.8 centimeters per second and 2.4 centimeters per second.

The Sony BM 146 is approved to record at both 2.4 centimeters per second and 1.2 centimeters per second.

The Sony BM 246 is approved to record at a speed of 2.4 centimeters per second only.

5. Dictaphone "For the Record"

Dictaphone Corporation's "For the Record"TM, *Digital Testimony Management System*, is available in three configurations: Client Server, Single Court, Portable Laptop